

FIRST REGULAR SESSION

HOUSE BILL NO. 345

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CIERPIOT (Sponsor), FUNDERBURK, SCHATZ, DAVIS,
HICKS AND GOSEN (Co-sponsors).

1193H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 67, RSMo, by adding thereto seven new sections relating to broadband and wireless deployment.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 67, RSMo, is amended by adding thereto seven new sections, to be
2 known as sections 67.5090, 67.5092, 67.5094, 67.5096, 67.5098, 67.5100, and 67.5102, to read
3 as follows:

67.5090. Sections 67.5090 to 67.5102 shall be known and may be cited as the
2 **"Uniform Wireless Communications Infrastructure Deployment Act" and is intended to**
3 **encourage and streamline the deployment of broadband facilities and to help ensure that**
4 **robust wireless communication services are available throughout Missouri.**

67.5092. As used in sections 67.5090 to 67.5102, the following terms mean:

2 **(1) "Accessory Equipment", any equipment serving or being used in conjunction**
3 **with a wireless facility or wireless support structure. The term includes utility or**
4 **transmission equipment, power supplies, generators, batteries, cables, equipment**
5 **buildings, cabinets and storage sheds, shelters, or similar structures;**

6 **(2) "Antenna", communications equipment that transmits and receives**
7 **electromagnetic radio signals used in the provision of all types of wireless communications**
8 **services;**

9 **(3) "Applicant", any person engaged in the business of providing wireless**
10 **communications services or the wireless communications infrastructure required for**
11 **wireless communications services who submits an application;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 (4) "Application", a request submitted by an applicant to an authority to construct
13 a new wireless support structure, for the substantial modification of a wireless support
14 structure, or for collocation of wireless facilities on an existing structure;

15 (5) "Authority", each state, county, and municipal governing body, board, agency,
16 office, or commission authorized by law to make legislative, quasi-judicial, or
17 administrative decisions relative to the construction, installation, modification, or siting of
18 wireless facilities and wireless support structures. The term shall not include state courts
19 having jurisdiction over land use, planning, or zoning decisions made by an authority;

20 (6) "Base Station", a station at a specific site authorized to communicate with
21 mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power
22 supplies, and other associated electronics;

23 (7) "Building Permit", a permit issued by an authority prior to the collocation of
24 wireless facilities on an existing structure, the substantial modification of a wireless
25 support structure, or the commencement of construction of any new wireless support
26 structure, solely to ensure that the work to be performed by the applicant satisfies the
27 applicable building code;

28 (8) "Collocation", the placement or installation of wireless facilities on existing
29 structures, including electrical transmission towers, water towers, buildings, and other
30 structures capable of structurally supporting the attachment of wireless facilities in
31 compliance with applicable codes. The term includes the placement, replacement, or
32 modification of wireless facilities within a previously approved equipment compound;

33 (9) "Electrical Transmission Tower", an electrical transmission structure used to
34 support high voltage overhead power lines. The term shall not include any utility pole;

35 (10) "Equipment Compound", an area surrounding or near the base of a wireless
36 support structure within which is located wireless facilities;

37 (11) "Existing Structure", a structure that exists at the time a request for
38 permission to place wireless facilities on a structure is filed with an authority. The term
39 includes any structure that is capable of supporting the attachment of wireless facilities in
40 compliance with applicable codes, including, but not limited to, towers, buildings, and
41 water towers. The term shall not include any utility pole;

42 (12) "Substantial Modification", the mounting of a proposed wireless facility on
43 a wireless support structure which:

44 (a) Increases the existing vertical height of the structure by:

45 a. More than ten percent; or

46 b. The height of one additional antenna array with separation from the nearest
47 existing antenna not to exceed twenty feet, whichever is greater; or

48 **(b) Involves adding an appurtenance to the body of a wireless support structure that**
49 **protrudes horizontally from the edge of the wireless support structure more than twenty**
50 **feet, or more than the width of the wireless support structure at the level of the**
51 **appurtenance, whichever is greater (except where necessary to shelter the antenna from**
52 **inclement weather or to connect the antenna to the tower via cable); or**

53 **(c) Increases the square footage of the existing equipment compound by more than**
54 **two thousand five hundred square feet;**

55 **(13) "Utility Pole", a structure owned and/or operated by a public utility,**
56 **municipality, electric membership corporation or rural electric cooperative that is designed**
57 **specifically for and used to carry lines, cables, or wires for telephony, cable television, or**
58 **electricity, or to provide lighting;**

59 **(14) "Water Tower", a water storage tank, or a standpipe or an elevated tank**
60 **situated on a support structure, originally constructed for use as a reservoir or facility to**
61 **store or deliver water;**

62 **(15) "Wireless Support Structure", a freestanding structure, such as a monopole**
63 **or tower, designed to support wireless facilities. This definition does not include utility**
64 **poles;**

65 **(16) "Wireless Facility", the set of equipment and network components, exclusive**
66 **of the underlying wireless support structure, including, but not limited to, antennas,**
67 **accessory equipment, transmitters, receivers, base stations, power supplies, cabling and**
68 **associated equipment necessary to provide wireless communications services;**

67.5094. In order to ensure uniformity across the state of Missouri with respect to
2 **the consideration of every application, an authority shall not:**

3 **(1) Require an applicant to submit information about, or evaluate an applicant's**
4 **business decisions with respect to its designed service, customer demand for service, or**
5 **quality of its service to or from a particular area or site;**

6 **(2) Evaluate an application based on the availability of other potential locations for**
7 **the placement of wireless support structures or wireless facilities, including without**
8 **limitation the option to collocate instead of construct a new wireless support structure or**
9 **for substantial modifications of a support structure, or vice versa;**

10 **(3) Dictate the type of wireless facilities, infrastructure or technology to be used by**
11 **the applicant or require an applicant to construct a distributed antenna system in lieu of**
12 **constructing a new wireless support structure, a substantial modification of a wireless**
13 **support structure or collocation;**

14 **(4) Require the removal of existing wireless support structures or wireless facilities,**
15 **wherever located, as a condition for approval of an application;**

- 16 **(5) Impose environmental testing, sampling, or monitoring requirements or other**
17 **compliance measures for radio frequency emissions on wireless facilities that are**
18 **categorically excluded under the FCC's rules for radio frequency emissions under 47 CFR**
19 **1.1307(b)(1);**
- 20 **(6) Establish or enforce regulations or procedures for RF signal strength or the**
21 **adequacy of service quality;**
- 22 **(7) In conformance with 47 U.S.C. Section 332(c)(7)(b)(4), reject an application, in**
23 **whole or in part, based on perceived or alleged environmental effects of radio frequency**
24 **emissions;**
- 25 **(8) Impose any restrictions with respect to objects in navigable airspace that are**
26 **greater than or in conflict with the restrictions imposed by the Federal Aviation**
27 **Administration;**
- 28 **(9) Prohibit the placement of emergency power systems that comply with federal**
29 **and state environmental requirements;**
- 30 **(10) Charge an application fee, consulting fee, or other fee associated with the**
31 **submission, review, processing, and approval of an application that is not required for**
32 **similar types of commercial development within the authority's jurisdiction. Fees imposed**
33 **by an authority or by a third-party entity providing review or technical consultation to the**
34 **authority must be based on actual, direct, and reasonable administrative costs incurred for**
35 **the review, processing, and approval of an application. In no case should total charges and**
36 **fees exceed: (a) five hundred dollars for a collocation application; or (b) one thousand five**
37 **hundred dollars for an application for a new wireless support structure or for a substantial**
38 **modification of a wireless support structure. Notwithstanding the foregoing: (a) in no**
39 **event shall an authority or any third-party entity include within its charges any travel**
40 **expenses incurred in a third-party's review of an application; and (b) in no event shall an**
41 **applicant be required to pay or reimburse an authority for consultation or other third**
42 **party fees based on a contingency or result-based arrangement;**
- 43 **(11) Impose surety requirements, including bonds, escrow deposits, letters of credit,**
44 **or any other type of financial surety, to ensure that abandoned or unused facilities can be**
45 **removed unless the authority imposes similar requirements on other permits for other**
46 **types of commercial development or land uses. If surety requirements are imposed, they**
47 **must be competitively neutral, non-discriminatory, reasonable in amount, and**
48 **commensurate with the historical record for local facilities and structures that are**
49 **abandoned;**
- 50 **(12) Condition the approval of an application on the applicant's agreement to**
51 **provide space on or near the wireless support structure for authority or local governmental**

52 services at less than the market rate for space or to provide other services via the structure
53 or facilities at less than the market rate for such services;

54 (13) Limit the duration of the approval of an application;

55 (14) Discriminate on the basis of the ownership, including ownership by the
56 authority, of any property, structure, or tower when promulgating rules or procedures for
57 siting wireless facilities or for evaluating applications;

58 (15) Impose any requirements or obligations regarding the presentation or
59 appearance of facilities, including, but not limited to, those relating to the kind or type of
60 materials used and those relating to arranging, screening, or landscaping of facilities;

61 (16) Impose any requirements that an applicant purchase, subscribe to, use, or
62 employ facilities, networks, or services owned, provided, or operated by an authority, in
63 whole or in part, or by any entity in which an authority has a competitive, economic,
64 financial, governance, or other interest;

65 (17) Condition the approval of an application on, or otherwise require, the
66 applicant's agreement to indemnify or insure the authority in connection with the
67 authority's exercise of its police power-based regulations; or

68 (18) Condition or require the approval of an application based on the applicant's
69 agreement to permit any wireless facilities provided or operated, in whole or in part, by an
70 authority or by any entity in which an authority has a competitive, economic, financial,
71 governance, or other interest, to be placed at or collocated with the applicant's wireless
72 support structure.

67.5096. 1. Authorities may continue to exercise zoning, land use, planning, and
2 permitting authority within their territorial boundaries with regard to the siting of new
3 wireless support structures, subject to the provisions of this act, including without
4 limitation section 67.5094 hereof, and subject to federal law.

5 2. Any applicant that proposes to construct a new wireless support structure within
6 the jurisdiction of any authority, planning or otherwise, that has adopted planning and
7 zoning regulations in accordance with this act shall:

8 (1) Submit the necessary copies and attachments of the application to the
9 appropriate authority; and

10 (2) Comply with applicable local ordinances concerning land use and the
11 appropriate permitting processes.

12 3. Disclosure of records in the possession or custody of authority personnel,
13 including but, not limited to, documents and electronic data, shall be subject to chapter
14 610, RSMo.

15 **4. The authority, within one hundred fifty calendar days of receiving an application**
16 **to construct a new wireless support structure, shall:**

17 **(1) Review the application in light of its conformity with applicable local zoning**
18 **regulations. An application is deemed to be complete unless the authority notifies the**
19 **applicant in writing, within thirty calendar days of submission of the application, of the**
20 **specific deficiencies in the application which, if cured, would make the application**
21 **complete. Upon receipt of a timely written notice that an application is deficient, an**
22 **applicant may take thirty calendar days from receiving such notice to cure the specific**
23 **deficiencies. If the applicant cures the deficiencies within thirty calendar days, the**
24 **application shall be reviewed and processed within one hundred fifty calendar days from**
25 **the initial date the application was received. If the applicant requires a period of time**
26 **beyond thirty calendar days to cure the specific deficiencies, the one hundred fifty calendar**
27 **days deadline for review shall be extended by the same period of time;**

28 **(2) Make its final decision to approve or disapprove the application; and**

29 **(3) Advise the applicant in writing of its final decision.**

30 **5. If the authority fails to act on an application to construct a new wireless support**
31 **structure within the one hundred fifty calendar days review period specified under**
32 **subsection 4 of this section, the application shall be deemed approved.**

33 **6. A party aggrieved by the final action of an authority, either by its affirmatively**
34 **denying an application under the provisions of this section or by its inaction, may bring an**
35 **action for review in any court of competent jurisdiction. In any such action, the party filing**
36 **such action, if it should substantially prevail in the action, shall be permitted to recover its**
37 **reasonable costs and attorneys' fees in bringing the action.**

67.5098. 1. Authorities may continue to exercise zoning, land use, planning, and
2 **permitting authority within their territorial boundaries with regard to applications for**
3 **substantial modifications of wireless support structures, subject to the provisions of this**
4 **act, including without limitation section 67.5094, and subject to federal law.**

5 **2. Any applicant that applies for a substantial modification of a wireless support**
6 **structure within the jurisdiction of any authority, planning or otherwise, that has adopted**
7 **planning and zoning regulations in accordance with this title shall:**

8 **(1) Submit the necessary copies and attachments of the application to the**
9 **appropriate authority; and**

10 **(2) Comply with applicable local ordinances concerning land use and the**
11 **appropriate permitting processes.**

12 **3. Disclosure of records in the possession or custody of authority personnel,**
13 **including but not limited to, documents and electronic data, shall be subject to chapter 610,**
14 **RSMo.**

15 **4. The authority, within ninety calendar days of receiving an application for a**
16 **substantial modification of wireless support structures, shall:**

17 **(1) Review the application in light of its conformity with applicable local zoning**
18 **regulations. An application is deemed to be complete unless the authority notifies the**
19 **applicant in writing, within thirty calendar days of submission of the application, of the**
20 **specific deficiencies in the application which, if cured, would make the application**
21 **complete. Upon receipt of a timely written notice that an application is deficient, an**
22 **applicant may take thirty calendar days from receiving such notice to cure the specific**
23 **deficiencies. If the applicant cures the deficiencies within thirty calendar days, the**
24 **application shall be reviewed and processed within ninety calendar days from the initial**
25 **date the application was received. If the applicant requires a period of time beyond thirty**
26 **calendar days to cure the specific deficiencies, the ninety calendar days deadline for review**
27 **shall be extended by the same period of time;**

28 **(2) Make its final decision to approve or disapprove the application; and**

29 **(3) Advise the applicant in writing of its final decision.**

30 **5. If the authority fails to act on an application for a substantial modification within**
31 **the ninety calendar days review period specified under subsection 4 of this section, the**
32 **application for a substantial modification shall be deemed approved.**

33 **6. A party aggrieved by the final action of an authority, either by its affirmatively**
34 **denying an application under the provisions of this section or by its inaction, may bring an**
35 **action for review in any court of competent jurisdiction. In any such action, the party**
36 **filing such action, if it should substantially prevail in the action, shall be permitted to**
37 **recover its reasonable costs and attorneys fees in bringing the action.**

67.5100. 1. Subject to the provisions of this act, including section 67.5094,
2 **collocation applications shall be reviewed for conformance with applicable building permit**
3 **requirements, but shall not otherwise be subject to zoning or land use requirements,**
4 **including design or placement requirements, or public hearing review.**

5 **2. The authority, within forty five calendar days of receiving a collocation**
6 **application, shall:**

7 **(1) Review the collocation application in light of its conformity with applicable**
8 **building permit requirements and consistency with this act. A collocation application is**
9 **deemed to be complete unless the authority notifies the applicant in writing, within fifteen**
10 **calendar days of submission of the collocation application, of the specific deficiencies in the**

11 collocation application which, if cured, would make the collocation application complete.
12 Upon receipt of a timely written notice that a collocation application is deficient, an
13 applicant may take fifteen calendar days from receiving such notice to cure the specific
14 deficiencies. If the applicant cures the deficiencies within fifteen calendar days, the
15 collocation application shall be reviewed and processed within forty-five calendar days
16 from the initial date the collocation application was received. If the applicant requires a
17 period of time beyond fifteen calendar days to cure the specific deficiencies, the forty-five
18 calendar days deadline for review shall be extended by the same period of time;

19 (2) Make its final decision to approve or disapprove the collocation application; and

20 (3) Advise the applicant in writing of its final decision.

21 3. If the authority fails to act on a collocation application within the forty-five
22 calendar days review period specified in subsection 2 of this section, the collocation
23 application shall be deemed approved.

24 4. Notwithstanding anything to the contrary in this act, an authority may not
25 mandate, require or regulate the installation, location or use of wireless facilities on utility
26 poles.

27 5. A party aggrieved by the final action of an authority, either by its affirmatively
28 denying an application under the provisions of this section or by its inaction, may bring an
29 action for review in any court of competent jurisdiction. In any such action, the party filing
30 such action, if it should substantially prevail in the action, shall be permitted to recover its
31 reasonable costs and attorneys' fees in bringing the action.

67.5102. In accordance with the policies of this state to further the deployment of
2 wireless communications infrastructure:

3 (1) An authority may not institute any moratorium on the permitting, construction
4 or issuance of approval of new wireless support structures, substantial modifications of
5 wireless support structures or collocations.

6 (2) To encourage applicants to request construction of new wireless support
7 structures on public lands and to increase local revenues, authorities shall offer leases or
8 contracts at market rates for applicants to use public lands that are at least twenty-five
9 years in duration. If the applicant and the authority do not agree on the applicable market
10 rate for any such public land, and, cannot agree on a process by which to derive the
11 applicable market rate for any such public land, then, the market rate will be determined
12 by a panel of three appraisers, using the following process. Each party will appoint one
13 appraiser to the panel, and the two appraisers so appointed will appoint a third appraiser.
14 Each appraiser will independently appraise the appropriate lease rate, and the market rate
15 shall be set at the mid-point between the highest and lowest market rates among the three

16 independent appraisals, provided the mid-point between the highest and lowest appraisals
17 is greater than or less than ten percent of the appraisal of the third appraiser chosen by the
18 parties' appointed appraisers. In such case, the third appraisal will determine the rate for
19 the lease. The appraisal process shall be concluded within one hundred fifty calendar days
20 from the date the applicant first tenders its proposed lease rate to the authority. Each party
21 will bear the cost of its own appointed appraiser, and the parties shall share equally the
22 cost of the third appraiser chosen by the two appointed appraisers.

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